

REMARKS

Applicant wishes to thank Examiner Leffers for the courtesy extended to Applicant's representative during the March 15, 2004 teleconference to discuss the outstanding rejections in this Office Action, in which the Examiner suggested claim language to overcome these rejections.

The pending Office Action addresses claims 1-6, 8, 9, 14, 17-21, and 23-31, rejecting all the claims as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. By this amendment, claims 1, 2, 5, 9, and 14 are amended in accordance with the helpful suggestions of the Examiner, in order to better define the claimed invention.

Specifically, claim 1 is amended to include the phrase "the probe matrix having *nucleic acid obtained from* a plurality of target species of microorganisms." Claim 1 is additionally amended to replace the phrase "storing information related to the at least one known organoleptic property of the sample in the database" with "storing *a sample profile containing data for* at least one known organoleptic property of the sample in the database." Claim 1 is also amended to remove the phrase "mining the database to" and to recite instead "*correlating* the output distribution." Finally, claim 1 is amended to recite that the presence of the at least one known organoleptic property can be "predicted in *another sample of the food product* by comparing *its* microbial profile to the database."

Claims 2 and 5 are amended to remove the recitation of the "array" and instead recite the "probe matrix." Claim 9 is amended to remove the language "mining the database wherein the database includes" and substitute instead the phrase "storing in the database." Lastly, consistent with the changes made to claim 1, claim 14 is amended to remove the phrase "mining the database to" and to recite instead "*correlating* the output distribution," while reciting that the presence of the at least one known organoleptic property can be "predicted in *another sample of the food product* by comparing *its* microbial profile to the database."

Support for the new claim language can be found at page 16, lines 8-20, at page 18, lines 7-27, at page 19, line 31 to page 20, line 3, and at page 27, line 29 to page 28, line 10. Accordingly, no new matter is added by these amendments.

For all the following reasons, Applicants respectfully request reconsideration of the present application in view of the current amendments.

Power of Attorney

During the March 15, 2004 teleconference, Examiner Leffers requested verification that Applicant's representative was listed as being of record in this application. The Examiner is kindly asked to refer to Customer No. 021125, which lists all attorneys and agents of record on the present application.

Rejections under 35 U.S.C. §112, 2nd paragraph

Claim 1 is rejected as being vague and indefinite for including the phrase "a probe matrix having a plurality of target species of microorganisms." As suggested by the Examiner, claim 1 is amended to now recite that the probe matrix has *nucleic acid obtained from* a plurality of target species of microorganisms, support for which can be found at page 16, lines 8-20 and at page 19, line 31 to page 20, line 3.

Claim 1 is also rejected for including the phrase "storing information related to the at least one known organoleptic property." As also suggested by the Examiner, claim 1 is amended to now recite the step of storing *a sample profile* containing data for at least one known organoleptic property. Support for the term "sample profile" can be found at page 18, lines 7-13.

Claims 1 and 14 are rejected for failing to provide proper antecedent basis for the term "the food product" at the end of the claim. Accordingly, claims 1 and 14 are amended to recite that the presence of the at least one known organoleptic property can be predicted in *another sample* of the food product by comparing *its* microbial profile to the database.

Claims 2 and 5 are rejected for failing to provide proper antecedent basis for the terms "the array of probes" and "said array," respectively. By this amendment, claims 2 and 5 are amended to replace these terms with "the probe matrix," for which basis can be found in independent claim 1 upon which these claims depend.

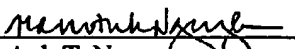
Finally, claims 1, 9 and 14 are rejected for reciting the limitation "mining the database." As suggested by the Examiner, claims 1 and 14 are amended to replace the step of "mining the database" with the specific step of "*correlating* the output distribution with the at least one known organoleptic property." Support for the amendment can be found on page 18, line 14-27 and at page 27, line 29 to page 28, line 10. Regarding claim 9, the step of "mining the database" is replaced with the step of "storing in the database."

Applicant believes that the present amendments satisfy each and every objection made by the Examiner in the present Office Action. In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

The Examiner is kindly requested to telephone the undersigned representative in the event that such communication is deemed to expedite the prosecution of this application.

Dated: March 17, 2004

Respectfully submitted,

By 
Tram Anh T. Nguyen
Registration No.: 47,257
NUTTER MCCLENNEN & FISH LLP
World Trade Center West
155 Seaport Boulevard
Boston, Massachusetts 02210-2604
Tel.: (617) 439-2734
Fax.: (617) 310-9734
Attorney for Applicant